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CHURCH OF SCIENTOLOGY  
8 INTERNATIONAL

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA

11 VICKI J. AZNARAN and ) CASE No. CV 88-1786 JMI(Ex)  
12 RICHARD N. AZNARAN, )  
 )  
13 Plaintiffs, ) DECLARATION OF MICHAEL  
vs. ) LEE HERTZBERG  
 )  
14 )  
 )  
15 CHURCH OF SCIENTOLOGY OF )  
CALIFORNIA, et al., )  
16 )  
Defendants. )  
17 )  
 )  
18 AND RELATED COUNTERCLAIMS.)  
 )

19  
20 MICHAEL LEE HERTZBERG, declare under penalties of  
21 perjury, as follows:

22 1. I am one of the attorneys of record representing the  
23 defendant Author Services, Inc. in the instant case. I have  
24 personal knowledge of the matters which I state herein.

25 2. The plaintiffs in this action have filed an opposition  
26 to a motion made by various defendants to recuse Hon. James M.  
27 Ideman. Plaintiffs assert in their opposition that "[i]t has  
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1 been public knowledge for well over a decade that Scientology  
2 admits of no limits when it seeks to recuse a judge it  
3 considers to be hostile." (Opp. at 15.) For this proposition  
4 plaintiffs cite and rely upon an article from the December 1980  
5 issue of The American Lawyer entitled "Scientology's War  
6 Against Judges" which is annexed as Exhibit 19 to their  
7 opposition. The premise of that article is that during the  
8 course of the litigation of the case of United States v. Heldt  
9 et al. in the United States District Court in the District of  
10 Columbia during 1979-1980, the "legal strategy" of the Church of  
11 Scientology and its counsel "has been to force the recusal of  
12 every judge assigned to that case." As one of the defense  
13 attorneys in the Heldt case I can categorically state that  
14 this premise is simply false and that the purported support for  
15 this thesis in the American Lawyer article is skewed.

16 3. There simply was no strategy or plan, legal or  
17 otherwise, to recuse judges in the Heldt case. Hon.  
18 George L. Hart, Jr., the first judge assigned to the case,  
19 presided for a number of months without any challenge by the  
20 defendants. During the course of pre-trial proceedings the  
21 government designated its tentative trial exhibits. One such  
22 exhibit was a document by one of the defendants generated many  
23 years before the commencement of the litigation, which made  
24 reference to Judge Hart. When defense counsel discovered the  
25 contents of the document after its designation by the  
26 government, we concluded that the introduction of this  
27 document at trial would be prejudicial to our clients if Judge  
28 Hart were the trial judge. Judge Hart agreed, but informed the



1 government that he would remain on the case if the government  
2 withdrew this single document as a trial exhibit. The  
3 government insisted on its right to utilize the exhibit  
4 referring to Judge Hart even though it was cumulative of the  
5 voluminous other designated trial exhibits as well as the  
6 literally thousands of other documents available to the  
7 government for trial. In short it was the government's stubborn  
8 refusal to withdraw a single trial exhibit which forced Judge  
9 Hart to resign after the designation by the government of a  
10 trial exhibit which referred to the trial judge. There was no  
11 "strategy" by the defendants or their counsel to recuse Judge  
12 Hart, nor did we have any control over the fortuitous events  
13 which occurred.

14 4. After Judge Hart was forced off by the government's  
15 actions the case was assigned to Hon. Louis F. Oberdorfer. It  
16 was the government and not the defendants who immediately  
17 suggested that Judge Oberdorfer's prior position in the Justice  
18 Department might disqualify him from sitting in the Heldt  
19 case. Indeed in the memoranda which Judge Oberdorfer solicited  
20 from both sides on this issue the defendants argued vigorously  
21 that there was no basis for Judge Oberdorfer to recuse himself  
22 while the government continued to suggest that he was disquali-  
23 fied from presiding. Pure and simple, Judge Oberdorfer's recusal  
24 was initiated and procured by the government. It is absolutely  
25 absurd to suggest that this recusal was the product of "legal  
26 strategy" pursuant to the mythical Scientology "war on judges."

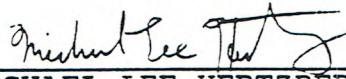
27 5. Hon. Charles Richey succeeded Judge Oberdorfer. It is  
28 my best recollection that the recusal motion filed by the

1 defendants against Judge Richey was principally based upon  
2 reliable information defense counsel obtained that Judge Richey  
3 had lied to counsel, when he denied that the extraordinary  
4 courthouse security precautions in connection with the Heldt  
5 case were related to that case. In any event the recusal of  
6 Judge Richey was no more the product of a defense strategy to  
7 recuse judges in the Heldt case than were the recusals of  
8 Judges Hart and Oberdorfer.

9 6. In summary, there was no strategy ever to recuse judges  
10 in the Heldt case and the thesis of the American Lawyer  
11 article which plaintiffs reply upon in the instant case is  
12 simply false.

13 I declare under penalty of perjury under the laws of the  
14 United States that the foregoing is true and correct.

15 Executed this 11th day of October, 1991, at Hollywood,  
16 California.

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20 MICHAEL LEE HERTZBERG  
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